

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

SECOND WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, December 12, 2001, 1:30 P.M.

ACTION CALENDAR:

1. **S-2500, Petition of the Primary Montessori Day School** (private educational institution). Letter to the Board from Patricia A. Harris, Esquire, requesting that the record be referred to the Office of the Hearing Examiner.

Action: Case referred to the Office of Hearing Examiner, (AMC/DLB, 4-0).

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz - ABSENT

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

Please be advised that the Board of Appeals now has it's own web site in which you can review the Monthly Calendar, Hearing Agenda, Worksession Agenda, Worksession Minutes, Notices, Opinions, and Applications. To enter the web site go to www.co.mo.md.us, click on County Council, Click on Legislative Branch Offices, then click on Board of Appeals. If you have any problems, please give us a call and we can try to help you through it.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, December 12, 2001, 9:00 A.M.

ACTION CALENDAR:

1. **S-610-B, Petition McDonald's Corporation** (drive-in restaurant). Transmittal to the Board from Stephen J. Mordfin, AICP. Planner III, Ben Dyer Associates, Inc., with revised site layout plan and landscaping plan. (Large exhibits).

Action: Reopened the record to include the revised site layout and landscaping plans, (AMC/DLB).

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz - ABSENT

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

Please be advised that the Board of Appeals now has it's own web site in which you can review the Monthly Calendar, Hearing Agenda, Worksession Agenda, Worksession Minutes, Notices, Opinions, and Applications. To enter the web site go to www.co.mo.md.us, click on County Council, Click on Legislative Branch Offices, then click on Board of Appeals. If you have any problems, please give us a call and we can try to help you through it.

MONTGOMERY COUNTY

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, December 12, 2001, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, November 28, 2001 Worksession.

Action: Approved with corrections, (DLB/LLM, 4-0).

2. **Order Extending Time for the Board's Written Opinion** for 30-days is required in the following cases:

- (a) **A-5639, Petition of Germantown Station Limited Partnership** (parking lot). Hearing held 11/7/01.
- (b) **A-5659, Petition of Margaret Littleford** (existing accessory structure/shed). Hearing held 11/7/01.
- (c) **A-5668, Petition of Charles McLaughlin** (accessory structure/pool enclosure). Hearing held 10/31/01.
- (d) **A-5669, Petition of Bruce and Debra S. Vivari** (one-story addition). Hearing held 11/7/01.
- (e) **A-5671, Petition of Gordon and Patricia Caudill** (one-story addition). Hearing held 11/7/01.
- (f) **S-657-B, Petition of Sunoco, Inc.** (automobile filling station). Hearing held 11/27/01.

Action: Granted Order Extending Time for 30 days, (LLM/AMC, 4-0).

3. **A-5465, Appeal of Scott Hendryx Wyatt, ET AL** (Department of Permitting Services (DPS) – Building Permit No. 221203). Letter to the Board from the appellant requesting a refund of the filing fee.

Action: Granted 100% of refund of the filing fee, in accordance with the Board's Rules of Procedure, (AMC/DLB, 4-0).

4. **A-5641, Petition of Kids N Care Learning Center, LLC** (two-story building). Letter to the Board from the Stephen J. Orens, Esquire, requesting withdrawal of the variance without prejudice and a request for a 100% refund of the filing fee.

Action: (1) Granted 50% refund of the filing fee, in accordance with the Board's Rules of Procedure; (2) dismissed the variance as withdrawn, (DLB/LLM, 4-0).

5. **A-5652, Appeal of Roger M. and Debra H. Lebbin** (Department of Permitting Services – Denial Letter dated 6/27/01). Letter to the Board from Malcolm F. Spicer, Jr., Assistant County Attorney, requesting that the Motion to Dismiss only be considered by the Board at the December 19, 2001 hearing.

Action: Granted Mr. Spicer's request to only consider the Motion to Dismiss at the 12/19/01 hearing, (LLM/AMC, 4-0).

6. **A-5670, Petition of Gaithersburg Recycling Center LLC** (Department of Permitting Services – Violation Letter). Letter to the Board from Scott C. Wallace, Esquire, requesting a second hearing date because of the unavailability of a witness.

Action: Granted additional hearing date, case will be scheduled on the Board's next available hearing date, (DLB/LLM, 4-0).

7. **A-5678, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis and A-5679, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis** (Department of Permitting Services – Issuance of Building Permit No. 257394 and Ruling Letter dated 8/31/01). Motion For Issuance of Stop Work Order *Pendente Lite* and Request For Emergency Hearing from William J. Chen, Esquire.

Action: (1) Granted Motion to Compel Pre-Hearing Discovery; (2) Denied Motion for Issuance of Stop Work Order, (LLM/AMC, 4-0).

8. **A-5690, Appeal of Choice Hotels International** (Department of Permitting Services – Ruling Letter dated 10/17/01). Letter to the Board from William Kominers, Esquire, withdrawing the appeal.

Action: Dismissed the appeal as withdrawn, (LLM/AMC, 4-0).

9. **CBA-1201, Petition of Ngoc-Diep T. Vuong, and Thao Thanh, Bui** (horticultural nursery and commercial greenhouse). Letter the Board from C. Robert Dalrymple, Esquire, and Anne C. Martin, Esquire, requesting that the Board reconsider its decision to hold a separate hearing on the matters referenced in the DPS Memorandum. Also included is the DPS memorandum dated 10/26/01.

Action: Schedule Show Cause Hearing for the same scheduled hearing date as the special exception modification request, (LLM/AMC, 4-0).

10. **S-913, Petition of Robert A. True, Jon R. Greenstone and W. F. Cresswell, Trustee, Church of the Savior** (roadside farm market). Letter to the Board from Gale Quist, Caregiver, advising that the special exception has been abandoned.

Action: Revoked special exception as abandoned, (LLM/DLB, 4-0).

11. **S-1561 [S-1561-A], Petition Richard A. Heald, D.D.S.** (non-resident dental office). Letter to the Board from the petitioner requesting an administrative modification.

Action: (1) Denied administrative modification request; (2) schedule Show Cause Hearing, (LLM/DLB, 4-0).

12. **S-1758, Petition of James A. Ford** (private riding stable). Letter to the Board from the petitioner notifying the Board that the special exception has been abandoned.

Action: Board to request DPS inspection of the special exception, consensus.

13. **S-1887, Petition of Poindexter Joint Venture** (medical and dental clinic). Letter to the Board from William J. Chen, Jr., Esquire, notifying the Board that there has been a failure to comply with the terms and conditions of the special exception and that the special exception has been abandoned and requesting that the special exception be revoked.

Action: Board to request DPS inspection of the special exception, (DLB/AMC, 4-0).

14. **S-2199, Petition of V. G. A. Limited Partnership** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of a failure to implement the special exception and requesting that the special exception be revoked.

Action: Schedule Show Cause Hearing, (AMC/LLM, 4-0).

15. **S-2315, Petition of Marcello Zenteno.** (automobile repair and service facility). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board that the special exception has an outstanding notice of violation and requesting a show cause hearing.

Action: Schedule Show Cause Hearing, (LLM/DLB, 4-0).

16. **S-2378, Petition of Marvin R. Mark** (accessory apartment). Memorandum to the Board from Robert Dejter, Housing Code Field Supervisor, Division of Housing and Code Enforcement, Department of Housing and Community Affairs, notifying the Board that the office has not received any written confirmation of adequacy and requesting a show cause hearing.

Action: Schedule Show Cause Hearing, (AMC/LLM, 4-0).

17. **S-2389 [S-24-B], Petition of Wireless PCS, Inc., d/b/a AT&T Wireless Services** (public utility structures, public utility buildings and telecommunications facilities). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification of the special exception. (Large exhibits: Elevation and site plan and site survey).

Action: Granted administrative modification request, (AMC/LLM, 4-0).

18. **S-2439, Petition of Paul Kolanowski** (landscape contractor). Letter to the Board from the petitioner requesting an administrative modification.

Action: Granted administrative modification to delete Condition No. 5 of the Board's Opinion, (LLM/AMC, 4-0).

19. **S-2490, Petition of Colonial Landscape & Design, Inc.** (landscape contractor). Letter to the Board from Stacy R. Silber, Esquire, requesting a continuance.

Action: Item deferred until the 12/19/01 worksession, consensus.

INFORMATION ITEM:

20. **CBA-1174, Petition of Holton Arms School** (private educational institution). Letter to the Board from Diane Coulton Beebe, Head of School, submitting Holton-Arms School's Quarterly Report.

Action: Record re-opened to include the School's Quarterly Report, (AMC/LLM, 4-0).

PENDING ITEMS:

21. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr. , et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

22. **CBA-2876, Petition of Great Hope, Inc.** (community redevelopment project). Letter to the Board from William J. Chen, Jr., Esquire, requesting a transfer of the special exception. Item deferred until the next worksession. Staff to contact Mr. Chen regarding petitioner's ownership interest.

23. **S-2473, Petition of Adnan Haider** (accessory apartment). Letters to the Board from L. Morgan Bates (Marguerite) and Suzanne McLaughlin, neighbors, regarding the special exception. Board to request Department of Housing and Community Affairs (DHCA) inspection of the special exception.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz - ABSENT

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

Please be advised that the Board of Appeals now has it's own web site in which you can review the Monthly Calendar, Hearing Agenda, Worksession Agenda, Worksession Minutes, Notices, Opinions, and Applications. To enter the web site go to www.co.mo.md.us, click on County Council, Click on Legislative Branch Offices, then click on Board of Appeals. If you have any problems, please give us a call and we can try to help you through it.

